

House File 203 - Reprinted

HOUSE FILE 203
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 75)

(As Amended and Passed by the House March 24, 2015)

A BILL FOR

1 An Act providing for the licensing of respiratory care
2 and polysomnography practitioners and polysomnographic
3 technologists and exceptions thereto, making penalties
4 applicable, and including effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135.24, subsection 2, paragraph a, Code
2 2015, is amended to read as follows:

3 a. Procedures for registration of health care providers
4 deemed qualified by the board of medicine, the board of
5 physician assistants, the dental board, the board of nursing,
6 the board of chiropractic, the board of psychology, the board
7 of social work, the board of behavioral science, the board
8 of pharmacy, the board of optometry, the board of podiatry,
9 the board of physical and occupational therapy, the board of
10 respiratory care and polysomnography, and the Iowa department
11 of public health, as applicable.

12 Sec. 2. Section 147.1, subsections 3 and 6, Code 2015, are
13 amended to read as follows:

14 3. "*Licensed*" or "*certified*", when applied to a physician
15 and surgeon, podiatric physician, osteopathic physician and
16 surgeon, physician assistant, psychologist, chiropractor,
17 nurse, dentist, dental hygienist, dental assistant,
18 optometrist, speech pathologist, audiologist, pharmacist,
19 physical therapist, physical therapist assistant, occupational
20 therapist, occupational therapy assistant, orthotist,
21 prosthetist, pedorthist, respiratory care practitioner,
22 practitioner of cosmetology arts and sciences, practitioner
23 of barbering, funeral director, dietitian, marital and
24 family therapist, mental health counselor, respiratory
25 care and polysomnography practitioner, polysomnographic
26 technologist, social worker, massage therapist, athletic
27 trainer, acupuncturist, nursing home administrator, hearing aid
28 dispenser, or sign language interpreter or transliterator means
29 a person licensed under this subtitle.

30 6. "*Profession*" means medicine and surgery, podiatry,
31 osteopathic medicine and surgery, practice as a physician
32 assistant, psychology, chiropractic, nursing, dentistry,
33 dental hygiene, dental assisting, optometry, speech pathology,
34 audiology, pharmacy, physical therapy, physical therapist
35 assisting, occupational therapy, occupational therapy

1 assisting, respiratory care, cosmetology arts and sciences,
2 barbering, mortuary science, marital and family therapy, mental
3 health counseling, polysomnography, social work, dietetics,
4 massage therapy, athletic training, acupuncture, nursing
5 home administration, hearing aid dispensing, sign language
6 interpreting or transliterating, orthotics, prosthetics, or
7 pedorthics.

8 Sec. 3. Section 147.2, subsection 1, Code 2015, is amended
9 to read as follows:

10 1. A person shall not engage in the practice of medicine
11 and surgery, podiatry, osteopathic medicine and surgery,
12 psychology, chiropractic, physical therapy, physical
13 therapist assisting, nursing, dentistry, dental hygiene,
14 dental assisting, optometry, speech pathology, audiology,
15 occupational therapy, occupational therapy assisting,
16 orthotics, prosthetics, pedorthics, respiratory care,
17 pharmacy, cosmetology arts and sciences, barbering, social
18 work, dietetics, marital and family therapy or mental health
19 counseling, massage therapy, mortuary science, polysomnography,
20 athletic training, acupuncture, nursing home administration,
21 hearing aid dispensing, or sign language interpreting
22 or transliterating, or shall not practice as a physician
23 assistant, unless the person has obtained a license for that
24 purpose from the board for the profession.

25 Sec. 4. Section 147.13, subsection 18, Code 2015, is amended
26 to read as follows:

27 18. For respiratory care and polysomnography, the board of
28 respiratory care and polysomnography.

29 Sec. 5. Section 147.14, subsection 1, paragraph o, Code
30 2015, is amended to read as follows:

31 o. For respiratory care and polysomnography, one licensed
32 physician with training in respiratory care, ~~three~~ two
33 respiratory care practitioners who have practiced respiratory
34 care for a minimum of six years immediately preceding their
35 appointment to the board and who are recommended by the society

1 for respiratory care, one polysomnographic technologist who
2 has practiced polysomnography for a minimum of six years
3 immediately preceding appointment to the board and who
4 is recommended by the Iowa sleep society, and one member
5 not licensed to practice medicine, osteopathic medicine,
6 polysomnography, or respiratory care who shall represent the
7 general public.

8 Sec. 6. Section 147.74, Code 2015, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 23A. A person who is licensed to engage in
11 the practice of polysomnography shall have the right to use the
12 title "polysomnographic technologist" or the letters "P.S.G.T."
13 after the person's name. No other person may use that title
14 or letters or any other words or letters indicating that the
15 person is a polysomnographic technologist.

16 Sec. 7. NEW SECTION. 148G.1 **Definitions.**

17 As used in this chapter, unless the context otherwise
18 requires:

19 1. "*Board*" means the board of respiratory care and
20 polysomnography established in chapter 147.

21 2. "*Direct supervision*" means that the respiratory care
22 and polysomnography practitioner or the polysomnographic
23 technologist providing supervision must be present where the
24 polysomnographic procedure is being performed and immediately
25 available to furnish assistance and direction throughout the
26 performance of the procedure.

27 3. "*General supervision*" means that the polysomnographic
28 procedure is provided under a physician's or qualified health
29 care professional prescriber's overall direction and control,
30 but the physician's or qualified health care professional
31 prescriber's presence is not required during the performance
32 of the procedure.

33 4. "*Physician*" means a person who is currently licensed in
34 Iowa to practice medicine and surgery or osteopathic medicine
35 and surgery and who is board certified and who is actively

1 involved in the sleep medicine center or laboratory.

2 5. "*Polysomnographic student*" means a person who is
3 enrolled in a program approved by the board and who may
4 provide sleep-related services under the direct supervision
5 of a respiratory care and polysomnography practitioner or
6 a polysomnographic technologist as a part of the person's
7 educational program.

8 6. "*Polysomnographic technician*" means a person who has
9 graduated from a program approved by the board, but has not
10 yet received an accepted national credential awarded from an
11 examination program approved by the board and who may provide
12 sleep-related services under the direct supervision of a
13 licensed respiratory care and polysomnography practitioner or a
14 licensed polysomnographic technologist for a period of up to
15 thirty days following graduation while awaiting credentialing
16 examination scheduling and results.

17 7. "*Polysomnographic technologist*" means a person licensed
18 by the board to engage in the practice of polysomnography under
19 the general supervision of a physician or a qualified health
20 care professional prescriber.

21 8. "*Practice of polysomnography*" means as described in
22 section 148G.2.

23 9. "*Qualified health care practitioner*" means an individual
24 who is licensed under section 147.2, and who holds a
25 credential listed on the board of registered polysomnographic
26 technologists list of accepted allied health credentials.

27 10. "*Qualified health care professional prescriber*" means a
28 physician assistant operating under the prescribing authority
29 granted in section 147.107 or an advanced registered nurse
30 practitioner operating under the prescribing authority granted
31 in section 147.107.

32 11. "*Sleep-related services*" means acts performed by
33 polysomnographic technicians, polysomnographic students, and
34 other persons permitted to perform those services under this
35 chapter, in a setting described in this chapter that would

1 be considered the practice of polysomnography if performed
2 by a respiratory care and polysomnography practitioner or a
3 polysomnographic technologist.

4 Sec. 8. NEW SECTION. 148G.2 Practice of polysomnography.

5 The practice of polysomnography consists of but is not
6 limited to the following tasks as performed for the purpose of
7 polysomnography, under the general supervision of a licensed
8 physician or qualified health care professional prescriber:

9 1. Monitoring, recording, and evaluating physiologic
10 data during polysomnographic testing and review during the
11 evaluation of sleep-related disorders, including sleep-related
12 respiratory disturbances, by applying any of the following
13 techniques, equipment, or procedures:

14 a. Noninvasive continuous, bilevel positive airway pressure,
15 or adaptive servo-ventilation titration on spontaneously
16 breathing patients using a mask or oral appliance; provided,
17 that the mask or oral appliance does not extend into the
18 trachea or attach to an artificial airway.

19 b. Supplemental low-flow oxygen therapy of less than six
20 liters per minute, utilizing a nasal cannula or incorporated
21 into a positive airway pressure device during a polysomnogram.

22 c. Capnography during a polysomnogram.

23 d. Cardiopulmonary resuscitation.

24 e. Pulse oximetry.

25 f. Gastroesophageal pH monitoring.

26 g. Esophageal pressure monitoring.

27 h. Sleep stage recording using surface
28 electroencephalography, surface electrooculography, and surface
29 submental electromyography.

30 i. Surface electromyography.

31 j. Electrocardiography.

32 k. Respiratory effort monitoring, including thoracic and
33 abdominal movement.

34 l. Plethysmography blood flow monitoring.

35 m. Snore monitoring.

1 *n.* Audio and video monitoring.

2 *o.* Body movement monitoring.

3 *p.* Nocturnal penile tumescence monitoring.

4 *q.* Nasal and oral airflow monitoring.

5 *r.* Body temperature monitoring.

6 2. Monitoring the effects that a mask or oral appliance
7 used to treat sleep disorders has on sleep patterns; provided,
8 however, that the mask or oral appliance shall not extend into
9 the trachea or attach to an artificial airway.

10 3. Observing and monitoring physical signs and symptoms,
11 general behavior, and general physical response to
12 polysomnographic evaluation and determining whether initiation,
13 modification, or discontinuation of a treatment regimen is
14 warranted.

15 4. Analyzing and scoring data collected during the
16 monitoring described in this section for the purpose of
17 assisting a physician in the diagnosis and treatment of sleep
18 and wake disorders that result from developmental defects,
19 the aging process, physical injury, disease, or actual or
20 anticipated somatic dysfunction.

21 5. Implementation of a written or verbal order from a
22 physician or qualified health care professional prescriber to
23 perform polysomnography.

24 6. Education of a patient regarding the treatment regimen
25 that assists the patient in improving the patient's sleep.

26 7. Use of any oral appliance used to treat sleep-disordered
27 breathing while under the care of a licensed polysomnographic
28 technologist during the performance of a sleep study, as
29 directed by a licensed dentist.

30 Sec. 9. NEW SECTION. 148G.3 Location of services.

31 The practice of polysomnography shall take place only in a
32 facility that is accredited by a nationally recognized sleep
33 medicine laboratory or center accrediting agency, in a facility
34 operated by a hospital or a hospital licensed under chapter
35 135B, or in a patient's home pursuant to rules adopted by the

1 board; provided, however, that the scoring of data and the
2 education of patients may take place in another setting.

3 Sec. 10. NEW SECTION. **148G.4 Scope of chapter.**

4 Nothing in this chapter shall be construed to limit or
5 restrict a health care practitioner licensed in this state from
6 engaging in the full scope of practice of the individual's
7 profession.

8 Sec. 11. NEW SECTION. **148G.5 Rulemaking.**

9 The board shall adopt rules necessary for the implementation
10 and administration of this chapter and the applicable
11 provisions of chapters 147 and 272C.

12 Sec. 12. NEW SECTION. **148G.6 Licensing requirements.**

13 1. Beginning January 1, 2017, a person seeking licensure
14 as a respiratory care and polysomnography practitioner or
15 as a polysomnographic technologist shall apply to the board
16 and pay the fees established by the board for the type of
17 license for which the applicant is applying. Beginning with
18 the March 31, 2016, license renewal period, a person licensed
19 as a respiratory care practitioner who seeks a respiratory
20 care and polysomnography practitioner license shall make such
21 application with the application for license renewal and pay
22 the fees established by the board. The fees established by the
23 board for a respiratory care and polysomnography practitioner
24 license shall not exceed one hundred twenty percent of the cost
25 of a respiratory care practitioner license issued pursuant to
26 chapter 152B or a polysomnographic technologist license issued
27 pursuant to this section. The application for a respiratory
28 care and polysomnography practitioner license must meet the
29 requirements of this section. An application for either
30 type of licensure shall show that the applicant is of good
31 moral character and is at least eighteen years of age, and
32 shall include proof that the person has satisfied one of the
33 following educational requirements:

34 a. Graduation from a polysomnographic educational program
35 that is accredited by the committee on accreditation for

1 polysomnographic technologist education or an equivalent
2 program as determined by the board.

3 *b.* Graduation from a respiratory care educational program
4 that is accredited by the commission on accreditation for
5 respiratory care or by a committee on accreditation for
6 the commission on accreditation of allied health education
7 programs, and any of the following:

8 (1) Completion of the curriculum for a polysomnographic
9 certificate established and accredited by the commission
10 on accreditation of allied health education programs as an
11 extension of the respiratory care program.

12 (2) Obtaining the sleep disorder specialist credential from
13 the national board for respiratory care.

14 (3) Obtaining the registered polysomnographic technologist
15 credential from the board of registered polysomnographic
16 technologists.

17 (4) Completing or obtaining any other certificate or
18 credential program as recognized by the board.

19 *c.* Graduation from an electroneurodiagnostic technologist
20 educational program that is accredited by the committee
21 on accreditation for education in electroneurodiagnostic
22 technology or by a committee on accreditation for the
23 commission on accreditation of allied health education
24 programs, and completion of the curriculum for a
25 polysomnographic certificate established and accredited by the
26 commission on accreditation of allied health education programs
27 as an extension of the electroneurodiagnostic educational
28 program or an equivalent program as determined by the board.

29 2. Notwithstanding subsection 1, beginning January 1, 2017,
30 the board shall issue a license to perform polysomnography to
31 an individual who holds an active license under section 147.2
32 in a profession other than polysomnography and who is in good
33 standing with the board for that profession upon application to
34 the board demonstrating any of the following:

35 *a.* Successful completion of an educational program in

1 polysomnography approved by the board.

2 *b.* Successful completion of an examination in
3 polysomnography approved by the board.

4 *c.* Verification from the medical director of the
5 individual's current employer or the medical director's
6 designee that the individual has completed on-the-job
7 training in the field of polysomnography, along with written
8 verification from the medical director of the individual's
9 current employer or the medical director's designee that the
10 individual is competent to perform polysomnography.

11 3. Notwithstanding subsection 1, beginning January 1,
12 2017, a person who is working in the field of sleep medicine
13 on January 1, 2017, may apply to the board for a license to
14 perform polysomnography. The board shall issue a license to
15 the person, without examination, provided the application
16 contains verification that the person has completed five
17 hundred hours of paid clinical or nonclinical polysomnographic
18 work experience within the three years prior to submission
19 of the application. The application shall also contain
20 verification from the medical director of the person's current
21 employer or the medical director's designee that the person is
22 competent to perform polysomnography.

23 4. A person who is working in the field of sleep medicine
24 on January 1, 2017, who is not otherwise eligible to obtain
25 a license pursuant to this section shall have until January
26 1, 2018, to achieve a passing score on an examination as
27 designated by the board. The board shall allow the person
28 to attempt the examination and be awarded a license as a
29 polysomnographic technologist by meeting or exceeding the
30 passing point established by the board. After January 1, 2018,
31 only persons licensed as respiratory care and polysomnography
32 practitioners or as polysomnographic technologists pursuant to
33 this chapter, or excepted from the requirements of this chapter
34 may perform sleep-related services.

35 5. The fees assessed by the board shall be sufficient to

1 cover all costs associated with the administration of this
2 chapter.

3 Sec. 13. NEW SECTION. **148G.7 Persons exempt from licensing**
4 **requirement.**

5 1. The following persons may provide sleep-related
6 services without being licensed as a respiratory care
7 and polysomnography practitioner or as a polysomnographic
8 technologist under this chapter:

9 *a.* A qualified health care practitioner may provide
10 sleep-related services under the direct supervision of a
11 licensed respiratory care and polysomnography practitioner or
12 a licensed polysomnographic technologist for a period of up
13 to six months while gaining the clinical experience necessary
14 to meet the admission requirements for a polysomnographic
15 credentialing examination. The board may grant a one-time
16 extension of up to six months.

17 *b.* A polysomnographic student may provide sleep-related
18 services under the direct supervision of a respiratory care and
19 polysomnography practitioner or a polysomnographic technologist
20 as a part of the student's educational program while actively
21 enrolled in a polysomnographic educational program that is
22 accredited by the commission on accreditation of allied health
23 education programs or an equivalent program as determined by
24 the board.

25 2. Before providing any sleep-related services, a
26 polysomnographic technician or polysomnographic student who
27 is obtaining clinical experience shall give notice to the
28 board that the person is working under the direct supervision
29 of a respiratory care and polysomnography practitioner or a
30 polysomnographic technologist in order to gain the experience
31 to be eligible to sit for a national certification examination.
32 The person shall wear a badge that appropriately identifies the
33 person while providing such services.

34 Sec. 14. NEW SECTION. **148G.8 Licensing sanctions.**

35 The board may impose sanctions for violations of this

1 chapter as provided in chapters 147 and 272C.

2 Sec. 15. Section 152B.1, subsection 1, Code 2015, is amended
3 to read as follows:

4 1. "*Board*" means the board of respiratory care and
5 polysomnography created under chapter 147.

6 Sec. 16. Section 272C.1, subsection 6, paragraph z, Code
7 2015, is amended to read as follows:

8 z. The board of respiratory care and polysomnography in
9 licensing respiratory care practitioners pursuant to chapter
10 152B, respiratory care and polysomnography practitioners
11 pursuant to chapter 152B, and polysomnographic technologists
12 pursuant to chapter 148G.

13 Sec. 17. INITIAL APPOINTMENT OF POLYSOMNOGRAPHIC
14 TECHNOLOGIST TO BOARD. For the initial appointment of the
15 polysomnographic member to the board of respiratory care and
16 polysomnography pursuant to section 147.14, as amended in this
17 Act, such appointee must be eligible for licensure pursuant to
18 this Act. The appointment shall be effective upon the first
19 expiration of the term of an existing respiratory care board
20 member which occurs after the effective date of this section
21 of this Act.

22 Sec. 18. EFFECTIVE DATE. The following provision or
23 provisions of this Act take effect January 1, 2017:

24 1. The section of this Act amending section 147.2,
25 subsection 1.